

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

OTSUKA PHARMACEUTICAL CO., LTD.,

Plaintiff,

V.

SANDOZ, INC.,

TEVA PHARMACEUTICALS USA, INC.,

TEVA PHARMACEUTICAL INDUSTRIES

LTD.,

BARR LABORATORIES, INC., BARR

PHARMACEUTICALS, INC.,

APOTEX INC., APOTEX CORP.,

SUN PHARMACEUTICAL INDUSTRIES.

LTD.,

SYNTHON HOLDING BV, SYNTHON BV,

SYNTHON PHARMACEUTICALS, INC., and

SYNTHON LABORATORIES, INC.,

Defendants.

**Consolidated Civil Action No.
3:07-cv-01000 (MLC)**

ORDER & FINAL JUDGMENT

This action came to trial before the Court. The issues have been tried and heard, and a decision has been rendered as set forth in the Memorandum Opinion dated November 15, 2010.

IT IS on this 15th day of November, 2010, **ORDERED AND ADJUDGED** that **FINAL JUDGMENT IS ENTERED IN FAVOR OF PLAINTIFF** and **AGAINST DEFENDANTS** with respect to Plaintiff's claims of infringement of Claim 12, Claim 17, and Claim 23 of U.S. Patent No. 5,000,528 (the "528 Patent"), pursuant to 35 U.S.C. § 271(e)(2)(A); and

**IT IS FURTHER ORDERED AND ADJUDGED that JUDGMENT IS ENTERED
IN FAVOR OF PLAINTIFF and AGAINST DEFENDANTS** with respect to Defendants'

counterclaims for non-infringement, invalidity of the '528 Patent, and unenforceability of the '528 Patent, and all such counterclaims are **DISMISSED WITH PREJUDICE**; and

IT IS FURTHER ORDERED that, pursuant to 35 U.S.C. § 271(e)(4)(B), Defendants and their officers, directors, employees, agents, successors, affiliates and assigns, and all persons and entities acting in concert or participation with them are enjoined until the expiration of the '528 Patent from engaging in the commercial manufacture, use, marketing, sale, or offer for sale within the United States, or from importing into the United States, generic aripiprazole products, including the aripiprazole products described in Sandoz's ANDA No. 78-611; Teva's ANDA Nos. 78-607, 78-608, 78-708, and 90-251; Barr's ANDA Nos. 78-612 and 78-613; Apotex's ANDA No. 78-583; Sun's ANDA No. 78-614; Synthon's ANDA No. 78-609; and Zydus/Cadila's ANDA Nos. 90-165 and 90-472, or any colorable variations thereof; and

IT IS FURTHER ORDERED that, pursuant to 35 U.S.C. § 271(e)(4)(A), the effective date of any approval of the generic aripiprazole products in the ANDA filings listed above shall not be earlier than the expiration date of the '528 Patent, April 20, 2015; and

IT IS FURTHER ORDERED that in the event that Defendants appeal from this Final Order and Judgment, any motion for attorneys fees or costs under Fed.R.Civ.P. 54(d) and L.Civ.R. 54.1-54.2, including any motion that this case is exceptional under 35 U.S.C. § 285, shall be considered timely if filed and served within thirty days after final disposition of any such appeal; and

IT IS FURTHER ORDERED that in the event that Defendants do not appeal from this Final Order and Judgment, any motion for attorneys fees or costs under Fed.R.Civ.P. 54(d) and L.Civ.R. 54.1-54.2, including any motion that this case is exceptional under 35 U.S.C. § 285,

shall be considered timely if filed and served within thirty days after the expiration of the time for filing a notice of appeal under Fed.R.App.P. 3 and 4; and

IT IS FURTHER ORDERED that Otsuka's motion to strike (dkt. entry no. 372) is **DENIED AS MOOT**; and

IT IS FURTHER ORDERED that the Clerk of the Court designate this action, the separate actions consolidated herein, and related actions Civil Action No. 08-2675 and Civil Action No. 10-2857 as **CLOSED**.

s/Mary L. Cooper
MARY L. COOPER
United States District Judge